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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,160	09/29/2003	William T. Donofrio	END-5030	1906

27777 7590 08/25/2006

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EXAMINER

ROY, ANURADHA

ART UNIT PAPER NUMBER

3736

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 102

Claim 1, 2, 4, 10, & 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hickle (US Patent No. 6,745,764). Please see office action of December 23, 2005 for details of the rejections.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims 5, 8, & 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hickle in view of Symser et al. (US Patent No. 5,904,639). Please see office action of December 23, 2005 for details of the rejections.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Arguments

Applicant's arguments filed June 21, 2006 have been fully considered but they are not persuasive. Applicant argues that Hickle does not disclose a controller that provides a feedback signal back to the patient in order to determine if the patient response meets a predetermined criteria. However, Hickle discloses a controller (14) generating a feedback signal (Column 21, lines 52-58, the "alarm" or "attention commanding device"), which is fully capable of being communicated to the patient when the hand grip from the patient meets a predetermined criteria (Column 21, lines 52-58,

the actual latency periods is compared with stored safety set parameters reflecting safe & undesirable latency period parameters"). Examiner further contends that an "alarm" or "attention commanding device" is fully capable of providing feedback signal directly to the to the patient, as well as the physician. Thus, Hickie anticipates a conscious sedation system, wherein the controller generates a feedback signal, which is communicated to the patient when the hand grip response from the patient meets a predetermined criteria.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

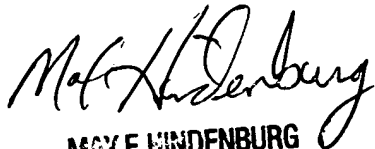
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anuradha Roy whose telephone number is 571-272-6169 and whose email address is anuradha.roy@uspto.gov. The examiner can normally be reached between 9:00am and 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3736

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